IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

RP.No. 889 of 2007(J)

AGAINST THE JUDGEMENT IN OP.32647/2000
.....

REVIEW PETITIONER/PETITIONER

M.RAVINDRANATHAN,
MAKKIYIL HOUSE, CHAMBAKARA P.O., KARUKACHAL,
KOTTAYAM.

BY ADV. SMT.I.SHEELA DEVI

RESPONDENTS:
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1. KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY, VYDHYUTHI BHAVAN,
PATTOM, THIRUVANANTHAPURAM.

2. CHIEF ENGINEER (H.R.D.),
KERALA STATE ELECTRICITY BOARD, VYDHYUTHI BHAVAN,
PATTOM, THIRUVANANTHAPURAM.

3. EXECUTIVE ENGINEER,
ELECTRICAL DIVISION, KERALA STATE ELECTRICITY
BOARD, VAIKOM.

BY ADV.SRI.C.K.KARUNAKARAN, S.C., K.S.E.B.

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ALONG WITH W.P(c).32647 OF 2000 ON 30/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN, J.

R.P.No.889 OF 2007 &
O.P.32647 OF 2000

Dated this the 30th day of November, 2007

O R D E R

The petitioner retired from the service of the first respondent Kerala State Electricity Board on 30.5.1999. He filed O.P.No.22768/00, which resulted in the judgment marked as Ext.P4 in this writ petition. O.P.No.32647/00, from which this Review Petition arises, is filed to quash Ext.P6 to the extent it deducted income tax at source. When the writ petition came up for final hearing, it was pointed out on behalf of the Board that amounts deducted have been credited to the Revenue. Therefore, the writ petition was disposed of issuing certain directions regarding finalisation of T.D.S. certificate and directing the I.T. authorities for refund etc. In this RP, it is pointed out that no tax, which is deducted at source, was remitted to the Revenue. The K.S.E.Board relied on the interim order passed on 21.11.2000 on C.M.P.No.55747/00, whereby, there was an interim direction to the respondents not to remit

the income tax deducted at source under Ext.P6. In the aforesaid background, this RP was admitted.

2. Going by the counter affidavit and reply affidavit placed on record in the RP, it is seen that the total amount that is due to the petitioner on a complete consideration of the materials on record, including the terms of Ext.P6, is Rs.26,407/-. That amount was not credited to the Revenue, though deducted. Though the continued retention of the amounts with the Board was on the basis of interim orders passed by this Court as aforesaid, the Board had enjoyed possession of such funds. Act of Court shall prejudice none. The Board cannot stand unjustly enriched by the continued retention of that amount, even if it were under interim orders of this Court.

For the aforesaid reasons, this RP is allowed recalling the directions contained in judgment dated 24.7.2007 in O.P. No.32647/00 and directing that the first respondent shall pay the petitioner an amount of Rs.26,407/- with interest at the rate

of 8% per annum from 1.1.2001 till the date of payment. All such amounts shall be released to the petitioner within an outer limit of two months from the date of receipt of a copy of this judgment.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.